

MEMO ENDORSED

(10.2)



U.S. Department of Justice

United States Attorney
Southern District of New York86 Chambers Street
New York, New York 10007

August 21, 2008

By Hand DeliveryHonorable Lawrence M. McKenna
United States District Judge
United States District Court
500 Pearl St., Room 1640
New York, NY 10007SDNY
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8/22/08

Milanes v. Chertoff, 08 Civ. 2354 (LMM)RECEIVED
IN CHAMBERS

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LAWRENCE M. MCKENNA
USDJ SDNY

Dear Judge McKenna:


We write in response to plaintiffs' letter dated August 19, 2008, which requested the Government to file its opposition to plaintiffs' Motion for Reconsideration (the "Motion") of the Court's August 7, 2008 Order in an expedited manner. The Government opposes this expedited briefing schedule, and pursuant to Local Civil Rules 6.1(b)(2) and 6.3, the Government requests until September 3, 2008, *i.e.*, ten business days after service of plaintiffs' motion, to file its opposition papers.

Plaintiffs filed their Motion to Reconsider on August 19, 2008, eight business days after a decision was issued in this matter. While plaintiffs now press for expedition, they themselves took almost the entire time period allotted to them (*i.e.* ten business days) to file their reconsideration motion. They now insist that the Government file its response to that motion within only five business days, (*i.e.*, by August 26, 2008), half of the allotted ten business days accorded to the Government under the Local Rules. In other words, plaintiffs have proposed a schedule in which the burden of their expedition falls disproportionately on the Government, not them.

In any event, the Government respectfully submits that this proposed schedule affords the Government insufficient time to prepare its opposition. As Your Honor noted in the August 7, 2008 Order, there are 245 pages of briefing that have been filed with the Court, and the issues are complex. In addition, two government agencies are involved in this matter, USCIS and FBI, and coordination with several out-of-state agency counsel, whose availability may vary given summer schedules, is required. Accordingly, the Government respectfully requests that the deadline for its service of an opposition to the motion for reconsideration be set for September 3, 2008.

Respectfully,

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Plaintiffs' application for expedited briefing is denied. Defendants' response to plaintiffs' motion is to be filed by 9/13/08. Plaintiffs may move until 9/10/08 to reply (but may, of course, reply earlier) If the Court finds that a hearing and/or oral argument is needed, it will so notify all counsel. So ordered.


M.J.G. 8/22/08